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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/397,455

09/16/1999

NED M SMITH

116536-153402

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02/02/2009

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EXAMINER

FIELDS, COURTNEY D

ART UNIT

PAPER NUMBER

2437

MAIL DATE

DELIVERY MODE

02/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/397,455	<b>Applicant(s)</b> SMITH, NED M	
	<b>Examiner</b> COURTNEY D. FIELDS	<b>Art Unit</b> 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,13,14,16-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-7,13,14,16,20,21 and 23 is/are allowed.
- 6) ☒ Claim(s) 8,17 and 24 is/are rejected.
- 7) ☒ Claim(s) 9-11,18,19,25 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1, 2, 4-11, 13-14, 16-21, and 23-26 are pending.

#### ***Response to Arguments***

1. Applicant's arguments filed 24 November 2008 have been fully considered but they are not persuasive.
2. Referring to the rejection of claim 8, the Applicant contends that the prior art, Spelman et al. fails to teach producing a document comprising an identification of a software module binary and a list of compromised keys. The Examiner respectfully disagrees and asserts that Spelman et al. discloses a method of recovering from a compromised root key and assigning trust in a new replacement key once the trust in the root key has been compromised. (See Abstract and Column 1, lines 35-49)  
Spelman et al. discloses producing an emergency message (i.e. document) which comprises a message identifier (i.e. identification of a software module binary) and a serial number (i.e. list of compromised keys). The serial number identifies the particular root key that has been compromised (See Column 4, lines 34-40) and the serial number indicates which of a plurality of root keys is being replaced (i.e. meaning which of the root keys has been compromised).(See Column 2, lines 12-13)  
Spelman et al. further discloses in Column 6, lines 43-46, if there are multiple root keys that are being used, the user can identify the compromised keys by examining the serial number within the emergency message.
3. Referring to the rejection of claim 8, the Applicant contends that the prior art, Spelman et al. fails to teach digitally signing the document using a key presented by or

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read from the document and traceable to one key of a set of keys wherein the set of keys is embedded in the software module binary. The Examiner respectfully disagrees and asserts that Spelman et al. discloses in Figure 2, when the root has been comprised, a new replacement public key-private key pair is constructed and an emergency message (i.e. document) is generated. The compromised root key generates a digital signature and a verification code to verify that the emergency message (i.e. document) is legitimate by applying a one-way function or one-way hash function to the emergency message.

4. Referring to the rejection of claim 8, the Applicant contends that the prior art, Spelman et al. fails to teach the set of keys having been compiled and linked with a software module to generate the software module binary. The Examiner respectfully disagrees and asserts that Spelman et al. discloses in Figure 4, the computer comprises a memory for storing public keys and for storing the software program (i.e. software module) which uses the keys for processing the emergency message (i.e. document). The software program is loaded into the computer and notifies the user to enter a verification code to authenticate a new root key.

5. Therefore, the rejection of claims 8-11, 17-19, and 24-26 are maintained in view of the reasons above and in view of the reasons below.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8, 17, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Spelman et al. (US Patent No. 5,680,458).

Referring to claims 8, 17, and 24, Spelman et al. discloses a method, device, and article comprising:

a processor (See Column 7, lines 18-20)

a machine-readable storage medium coupled to the processor by way of a bus  
(See Column 7, lines 27-29)

producing a document comprising an identification of a software module binary and a list of comprised keys (See Column 4, lines 34-46)

and digitally signing the document using a key presented by or read from the document and traceable to one key of a set of keys, wherein the set of keys is embedded in the software module binary (See Column 5, lines 9-16)

the set of keys having been compiled and linked with a software module to generate the software module binary (See Column 6, lines 33-46)

***Allowable Subject Matter***

3. Claims **1-2, 4-7, 13-14, 16, 20-21 and 23** are allowed.

4. Claims 9-11, 18-19, and 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COURTNEY D. FIELDS whose telephone number is (571)272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Courtney D. Fields/  
Examiner, Art Unit 2437  
January 29, 2009

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2437